



## Evidence and Notification Delays

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of extension of timeframes for notification letters.

**SUMMARY:** The Veterans Benefits Administration (VBA) received notice that the vendor contracted to provide printing services to the Department of Veterans Affairs (VA) experienced staffing and equipment issues that resulted in a significant delay in the printing and mailing of benefit letters. To protect the interests of Veterans and other claimants affected by this delay, VBA is instituting temporary guidance extending a grace period on responses to time-sensitive letter notifications.

**FOR FURTHER INFORMATION CONTACT:** Raymond Tellez, Executive Director, Office of Business Integration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202-461-9367. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On August 12, 2021, the Office of Information and Technology informed VBA that the vendor, contracted to provide printing services to VA by the Government Publishing Office (GPO), experienced staffing and equipment issues that resulted in a significant delay in the printing and mailing of letters sent through the Veterans Benefits Management System (VBMS) Package Manager or centralized printing. VBA was informed that since July 13, 2021, there were letters not timely mailed to Veterans and other claimants. This printing and mailing delay does not impact Insurance Service, Education Service or Loan Guaranty Service timeframes for applications, appeals or notifications. In addition, any automated “batch” letters have not been affected by this situation. VBA awarded a new contract on September 29, 2021, with full printing capability achieved by December 31, 2021. Any notification letters issued after this date will be printed and mailed timely.

The staffing and equipment issues impacted the ability of VBA to send timely notification letters to some claimants. Some of these letters require a claimant response within a set timeframe. Response periods are traditionally calculated based on the date of mailing and the date of the letter of notification is considered the date of mailing for this purpose. However, VBA is unable to ascertain the extent of delay between the date of the letter of notification and date of actual mailing of that letter for any given correspondence generated during the impacted period. As a result, some claimants may not be able to satisfy the required timeframe for response through no fault of their own due to printing and mailing delays. VA aims to protect the interests of claimants by extending a grace period on the timeframe for which claimants can respond to time-limited notification.

If a claimant does not reply to a time-limited notification generated during the period beginning July 13, 2021 and ending December 31, 2021, such as making an election of benefits or services, or reporting for a scheduled compensation and pension examination or scheduled hearing before VBA, VBA will not take adverse action to deny, reduce, or terminate benefits or services unless: 1) the claimant is contacted and there is documented notice of their right to respond; 2) the requested information is received; or 3) the response period has lapsed after affording the claimant at least an additional 90 days to respond. To determine the length of the extended response period, VA considered the number of days the mail was delayed. While this number has varied, once a claimant has been afforded the original time span in the letter (generally 30 or 60 days) followed by an additional 90 days, the additional timeframe would cover the period of delay for all impacted notices. If deemed necessary, further extensions for the impacted population may be announced.

For Veterans who filed an appeal with the Board of Veterans' Appeals (Board) please visit <https://www.bva.va.gov/> for information specific to Board correspondence, scheduled hearings at the Board and receiving your Board decision.

VA regulation 38 CFR 3.110 provides that, "[i]n computing the time limit for any action required of a claimant or beneficiary, including the filing of claims or evidence requested by VA, the first day of the specified period . . . shall be the date of mailing of notification to the claimant or beneficiary of the action required and the time limit therefor. The date of the letter of notification shall be considered the date of mailing for purposes of computing time limits."

38 CFR 3.109(b) provides that time limits within which claimants or beneficiaries are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. VA has determined that correspondence impacted by GPO printing vendor delays during the specified time frame serves as good cause to extend those time limits for correspondence generated during the impacted period.

38 CFR 3.103(b) ("Procedural due process and other rights") provides guidance on the right to notice. In part, this regulation affirms that claimants are entitled to notice of any decision. Section 3.103(b)(2) states that no award of compensation, pension, or dependency and indemnity compensation shall be terminated, reduced, or otherwise adversely affected unless the claimant has been provided a period of 60 days in which to submit evidence. Section 3.103(c) provides the general rules regarding submission of evidence.

VBA hereby gives notice that if a claimant for VBA benefits other than insurance, education, and loan guaranty benefits does not reply to a time-limited notification, such as making an election of benefits or services, or reporting for a scheduled compensation and pension examination or scheduled hearing before VBA issued via VBMS Package

Manager or centralized printing from July 13, 2021 until December 31, 2021, then VA will automatically extend the response period at least 90 days.

In addition to publishing this notice in the Federal Register, and to ensure all impacted claimants are aware of this information, VA issued a press release on November 30, 2021, addressing these delays and the remedial steps described above. <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5744>. Furthermore, on December 6, 2021, VA transmitted an email notice to claimants at their last known email addresses that informed them of the printing delay and the extended response period. Additionally, VBA intends to mail a letter to all claimants impacted by these delays that informs them of the extension outlined above. This letter will encourage claimants who anticipated receiving a time-sensitive letter notification but have not yet received one to contact VA at 1-800-827-1000.

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on February 27, 2022 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

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